

REMARKS

Claim 9 is under examination and stands rejected. Claim 9 has been amended to place the application in condition for allowance. Amended Claim 9 clarifies that the recited ingredients are added to the composition in an amount effective to photoprotect a pet. Exemplary support for this amendment can be found in the specification at page 5, lines 25-29 for yeast, page 5, lines 11-13 for probiotic bacteria, and page 8, lines 18-19 for carotenoids and page 6 lines 8-9, Examples 1 and 2 for the composition as a whole. Claim 9 has also been amended to clarify that the carotenoid can be synthetic or natural and may or may not have provitamin A activity. Support for this amendment can be found at page 6, line 26-30, for example.

Claim 9 stands rejected as allegedly being anticipated or obvious because of *Shields*. Applicant requests that the rejection be reconsidered and withdrawn for the following reasons. *Shields* does not disclose any amounts of probiotic bacteria, nor does *Shields* disclose any amount of yeast, nor does *Shields* disclose any amount of carotenoids. Not only does *Shields* fail to disclose amounts of any of the individual claimed ingredients but *Shields* also fails to disclose amounts of the combination of these ingredients that are effective to photoprotect a pet. For this reason *Shields* cannot be said to anticipate Claim 9. Applicant respectfully submits that principles of inherency are not applicable in this situation where there is absolutely no teaching of any quantities of the claimed components. In *Shields*, for example, even if all the claimed components were included in a pet food formulation, the components could be included in amounts that would be insufficient to provide a photoprotective effect to a pet. Thus, they would not necessarily possess the characteristics of the claimed product, as required for inherent anticipation. Moreover, because *Shields* contains no teaching with respect to photoprotection it cannot be said to render Claim 9 obvious.

Claim 9 stands rejected as allegedly being obvious over *Shields* in view of *Baur*. As pointed out above, *Shields* fails to disclose any amounts of the claimed ingredients and fails to disclose amounts effective to photoprotect a pet. Even if *Baur* were an effective reference, which Applicant respectfully submits it is not, *Baur* contains no disclosure of two of the three claimed ingredients, namely, carotenoids and yeast. As pointed out in the Office action at page

10, *Baur* do not teach a composition comprising a photoprotecting amount of a probiotic lactic acid bacterium as well as yeast and carotenoids. Thus, *Baur* cannot remedy deficiencies in *Shields*, particularly with respect to compositions that contain a yeast and a carotenoid because the combination of *Shields* and *Baur* lacks any teaching with respect to amounts of yeast and carotenoids in combination with a probiotic lactic acid bacteria or culture supernatant thereof in photoprotective amounts for a pet. Applicant would be happy to submit a declaration removing *Baur* as a reference under 103(c) but believes it to be unnecessary in this case.

For the reasons set forth above, Patentee respectfully submits that Claim 9 is patentable and earnestly solicits issuance of the same. Applicant kindly requests the Examiner contact the undersigned at the telephone number below should any issues become apparent that can be resolved by telephone.

Respectfully submitted,

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